July 14, 2025

**VIA ELECTRONIC EMAIL**

**Puerto Rico Public-Private Partnerships Authority**
PO BOX 42001
San Juan, Puerto Rico 00940-2001
Attention: Executive Director – Josué Colón
Telephone: (787) 722-2525 Ext. 15330
Email: Administrator@p3.pr.gov

**Puerto Rico Electric Power Authority**
PO BOX 364267
San Juan, Puerto Rico 00936-4267
Attention: Executive Director- Mary Carmen Zapata
Email: mary.zapata@prepa.pr.gov

**Re: Follow up – Status Natural Gas Supply Arrangements for San Juan 5&6 and TM2500s at San Juan and Palo Seco**

Dear Mr. Colón:

We write in response to the Requests for Information (the "RFIs") from the Puerto Rico Public-Private Partnerships Authority ("P3A") on July 11 and July 13, 2025, requesting (1) alternative fuel supply strategies to natural gas delivered by NFE, (2) a description of how Genera intends to maintain operation of the TM2500s at San Juan and Palo Seco and San Juan 5&6, and (3) a description of what actions Genera will take to require NFE to deliver natural gas in compliance with NFE's obligations. The responses in this letter apply to both RFIs unless context otherwise requires. Capitalized terms not defined in this letter have the meanings given to them in the Genera's Operation and Maintenance Agreement ("OMA") dated as of January 24, 2023, among the P3A, Genera PR LLC ("Genera") and the Puerto Rico Electric Power Authority ("PREPA").

P3A acknowledges in both RFI's the critical nature of the San Juan and Palo Seco TM2500s and the San Juan 5&6 units as well as the importance of their fuel supply in providing power for the Government of Puerto Rico and its citizens. Yet, **the letters provide no explanation whatsoever for why the P3A and the Third-Party Procurement Office ("3PPO") failed to launch a competitive fuel procurement**

**process ("RFP") to replace the contract to supply fuel for the TM2500s for over five months** after notification from Genera that this needed to be addressed urgently.

On March 15, 2024, P3A made the decision to authorize PREPA to execute a one-year Natural Gas Sale and Purchase Agreement with NFEnergía LLC, a subsidiary of NFE, for the supply and delivery of natural gas to, among other units, the TM2500s at San Juan and Palo Seco. By its terms, the March 2024 agreement would have expired on March 16, 2025, but was ultimately extended until July 11, 2025.

Starting in March 2024, P3A had specific notice of the need to address the fuel procurement issue upon signing the one-year agreement. Later, on September 27, 2024, P3A sent a letter to Genera regarding a multi-site, fuel supply RFP applicable after expiration of the one-year agreement. In Genera's response, dated October 14, 2024, Genera recommended completing the necessary RFP no later than March 2025; and on November 4 and November 9, the 3PPO, P3A and Genera exchanged communications to initiate 3PPO's engagement for the RFP. In late November 2024, Genera prepared and supplied P3A and 3PPO with a draft package of RFP documents that covered the location of the TM2500s and other sites around Puerto Rico. On two separate occasions during the first week of December 2024, Genera responded to questions and comments from P3A and the 3PPO on these documents and prepared revisions so they would be ready for immediate publication. But P3A and 3PPO failed to launch the RFP for months (despite multiple follow-ups from Genera as described in Genera's June 20 letter) until forced to do so in late March 2025 in response to a 100-day timeline set by the Financial Oversight & Management Board for Puerto Rico ("FOMB"). The citizens and Government of Puerto Rico, PREPA, and Genera are in the situation we are in today, **more than nine months after P3A's September 2024 letter**, because of P3A's unexplained delay in launching and completing the RFP that Genera requested in 2024 and that P3A and its contractor, 3PPO, had responsibility to complete under the OMA.

**Genera has fully complied with all of its OMA obligations regarding the replacement of the 2024 one-year agreement to supply natural gas, including for the TM2500s at Palo Seco and San Juan**. Under Article 1426(a) of the Puerto Rico Civil Code of 2020 (the "2020 Civil Code"), PREPA is obligated to facilitate the normal exercise of Genera's agency activities. As Section 5.7 of the OMA notes, any renewal of an existing Fuel Contract and any procurement of a new Fuel Contract is subject to approval by Administrator and performed in accordance with Applicable Law and in a manner

consistent with the Procurement Manual. The OMA and Procurement Manual establish clear protocols to mitigate and manage organizational conflicts of interest ("OCI"), including procurement and contracting relating to LNG or natural gas. The OMA and Procurement Manual require the 3PPO to run the procurement and contracting process and to manage material contract issues, expressly including as "**Activities performed by the 3PPO**" any issues around a relief event, supervening event, or change request (technical, schedule, or cost), or other objective determinations with respect to the **Affiliate or Parent Company's performance of, or compliance with contract requirements**. Again, based on the OMA and Procurement Manual, the 3PPO must *determine and take action* when issues of contract performance or compliance arise. The OMA calls for and Genera relies on 3PPO and P3A to follow the contractual processes for OCI management.

Genera has also consistently carried out its responsibilities in good faith according to reasonable instructions received throughout this process, and demonstrated diligence and loyalty in performing its activities on behalf of PREPA, including by promptly responding to P3A's September 2024 notification, recommending completion of the RFP by March 2025 while still in 2024 (months before expiration of the agreement), actively engaging with 3PPO in November 2024 to initiate the procurement process, providing multiple follow-ups to expedite the RFP launch, and proactively securing alternative ultra-low sulfur diesel ("Diesel") supplies while operating within the constraints of the OMA and Procurement Manual.

Genera provides specific responses to P3A's RFIs as follows:

**1. Genera's alternative fuel-supply strategy**

As P3A is aware, Diesel is the primary back-up fuel for the TM2500s and San Juan 5&6 units. Genera's Fuels Department has been and continues proactively to coordinate pipeline deliveries of Diesel from its contracted supplier, Puerto Rico Energy, LLC. Genera expects these fuel purchases to ensure continuous fuel availability for the TM2500s and San Juan 5&6, provided that LUMA dispatches these units per typical patterns and equipment configurations. The Fuels Team will negotiate fuel purchases

to maintain relevant storage tanks at target safe-fill levels to preserve buffer inventory and facilitate generation response capability.

Genera received fifty-four thousand (54,000) barrels of Diesel on Saturday, July 12, 2025, under reference ULSD-11-24-SJPS-038, as follows:

| Location | Amount(s) | ETC |
|---|---|---|
| Palo Seco Tank D-1 | 10,000 barrels | 1700 Local Time, 07/12 |
| San Juan Tank D-5 | 30,000 barrels | 0800 Local Time, 07/13 |
| Palo Seco Tank D-3 | 14,000 barrels | 2100 Local Time, 07/13 |

Genera has also scheduled its next planned delivery for July 15, 2025, for fifty-five thousand (55,000) barrels, under reference ULSD-11-24-SJPS-039, as follows:

| Location | Amount(s) | ETC |
|---|---|---|
| San Juan Tank D-6 | 30,000 barrels | 1700 Local Time, 07/15 |
| San Juan Tank D-5 | 15,000 barrels | 0400 Local Time, 07/16 |
| Palo Seco Tank Farm | 10,000 barrels | 2200 Local Time, 07/16 |

Detailed transfer documentation is available for review.

Additional deliveries will follow based on LUMA's dispatch of the units. LUMA's collaboration, and avoidance of significant departures from anticipated dispatch (as seen in recent events on the south of the island) will remain critical to fuel inventory management.

**PREPA must fund the Fuel Account to allow these purchases to be completed**. Genera requires funding of the Fuel Account "equal to at least an average of two (2) months of Fuel Costs" to ensure funds available to complete these purchases and cooperation from fuel suppliers with timely deliveries. OMA at Section 7.6(b)(ii). Failure to pay fuel suppliers caused by funding shortfalls may result in suspension of deliveries under the relevant contract(s). **PREPA's repeated failures to fully fund the Fuel Account (including shortfalls averaging over $150 million, in clear breach of the OMA) materially affect Genera's operations, including its ability to enter into alternative fuel supply arrangements on behalf of PREPA**. This funding deficit may preclude Genera from paying the fuel suppliers and thereby result in the suspension of

deliveries under the relevant contract(s). Any such failure of funding would preclude Genera from performing under the OMA with respect to the delivery of fuels and would be entirely PREPA's fault. Section 7.8 of the OMA specifically disclaims Genera's responsibility to "incur or pay any costs or make expenditures in providing Services … to the extent any of the Service Accounts do not contain sufficient funds to pay such costs and expenditures."

Beyond Diesel, as mentioned above, the OMA and Procurement Manual limit Genera's ability to procure natural gas without involvement of the 3PPO and P3A because of the obvious likelihood that NFEnergía LLC, an affiliate of Genera, will participate and the need for an independent procurement effort. Thus, P3A serves as the contracting party directly negotiating the gas supply agreement with NFE, which remains subject to final FOMB approval. Genera lacks the authority to negotiate this agreement and functions merely as a third party to this procurement process.

Genera understands from past discussions with P3A that the results of the recent RFP conducted by 3PPO did not identify any alternative natural gas supplier with capacity and access to these units. Genera requests P3A and 3PPO to identify any of the proponents in the recent RFP that showed capacity to immediately supply sufficient quantities of natural gas to operate these units continuously and to supply contact information.

**2. Description of continuous operation**

Since PREPA acquired the TM2500s in March 2024, Genera has continuously operated them in the configuration in which PREPA provided them. The units are dual fuel capable, but the system configuration as installed by FEMA and purchased by PREPA only allows all of them to run continuously on natural gas. The configurations, as purchased by PREPA, essentially lack sufficient Diesel storage capacity, which is estimated to cost over $5 million and to take eight months to construct. When factoring in the current buffer tank refill time, the fuel settling time, the time to transport and test the fuel in accordance with the Consent Decree, the laboratory certification process, and the time it would take all units to consume the Diesel in the limited buffer tanks, continuous operation of all such units on Diesel is not realistic and creates a high risk of failure.

If PREPA is now claiming that Genera was required by the OMA to undertake the necessary capital expenditures to reconfigure all of the TM2500s so that they could simultaneously and continuously operate on Diesel in the days leading up to the expiration of the contract, PREPA is mistaken. Before undertaking any capital improvements on the Legacy Generation Assets, Genera must propose that project to the PREB and obtain its approval before proceeding, which here would have required Genera to foresee P3A's failure to complete the RFP on time several months before it happened. Section 5.6(b) of the OMA. Genera thus lacked authority to undertake such expenditures, and neither P3A nor PREPA ever provided funding for such work.

**Instead, despite being aware of the existing system configuration limiting the supply of Diesel to the TM2500s since PREPA acquired the units, PREPA and P3A not only failed to fund the upgrading of the Diesel infrastructure but also regularly underfunded Genera's operations by as much as 87% versus Genera's requests**. Given PREPA's ongoing and repeated failures to fund Genera's Services Accounts going back to 2024, as well as the failure of the PREB to set annual budget in accordance with operator needs, Genera has not had funds available or allocated for new fuel infrastructure. Genera requests an urgent update from P3A and PREPA on when P3A and PREPA will provide full and adequate funding in compliance with the OMA to allow any additional works (as well as the repair of units under forced outage and the continuation of the federal projects, which require a 10% cost share) to proceed.

To be absolutely clear, **the unilateral and systematic failure to fund Genera's Service Accounts in breach of the OMA has directly caused the delay of major generation repair projects (and a reduction in available generation (EAF))**. If P3A and PREPA had funded the Service Accounts in accordance with the OMA as Genera repeatedly requested, Genera could have already completed the repair of Cambalache Unit 3 and Mayaguez Unit 4. This would have added over 100 MW of generation capacity to the grid, mitigating the impact of any limitations in the infrastructure for the TM2500's that PREPA purchased. Even the Aguirre repairs over the past weekend have been delayed by unpaid vendors – namely, Star Electric, a relatively small, local company – refusing to work for PREPA. Major vendors like GE Vernova are also going unpaid and halting work. The ongoing failure by PREPA and P3A to fund forced outage repairs for the past several months is currently resulting in load shed events. P3A and PREPA have failed to fund basic repair and maintenance of permanent, primary generation facilities currently resulting in outages and load shedding, let alone the construction

of secondary, back-up fuel infrastructure (e.g., a diesel storage tank) for the units purchased in 2024.

Lastly, under Puerto Rico agency law principles set forth in Article 1426(b) of the 2020 Civil Code, principals must provide their agents with sufficient elements necessary to carry out their obligations. Puerto Rico contract law prohibits impossible contractual conditions and forbids material compliance obligations that depend solely on one party's unilateral discretion. As the entity responsible for anticipating contracting limitations given the FOMB approval requirement under the ongoing RFP, P3A cannot impose impossible performance standards on Genera. When a principal makes an informed decision about system specifications and subsequently fails to provide funding for necessary upgrades, the agent cannot be held liable for performance constraints inherent in the principal's chosen configuration. Accordingly, **Genera requests an urgent update from P3A regarding PREPA's ability to fund the installation of upgrades to allow all of the TM2500s to run simultaneously on Diesel.**

In the meantime, Genera will continue to utilize Palo Seco Tank D-1 (capacity: 11,797.30 barrels), San Juan Tank D-5 (capacity: 31,101.69 barrels), and San Juan Tank D-6 (capacity: 31,101.69 barrels) to maintain the operation of the TM2500s system capable of running on Diesel in accordance with the current configuration of the TM2500s, and subject to dispatch instructions issued by LUMA.

### 3. Actions Genera is taking

Upon learning of the continued vessel delay on July 12, Genera demanded NFE urgently explain the reason for the supply interruption and reserved PREPA's rights under the San Juan 5&6 contract. Genera will update 3PPO and P3A when receiving a response, and will coordinate with the 3PPO regarding next steps, if any, including asserting claims for any damages that become due in accordance with the terms of the FSPA. Genera inherited the FSPA, which PREPA negotiated, and is limited in its responses by the terms of that contract. For transparency purposes (and without limiting the actions taken above), Genera recommends and requests P3A to engage 3PPO for direct involvement in the process of administering the contract specifically related to any claims under the FSPA against NFEnergía with respect to the failure to deliver natural gas to San Juan 5&6.

The current circumstances ultimately stem from the systemic inability of P3A and PREPA to fund critical infrastructure investments, take timely action and compensate essential suppliers. These fundamental deficiencies in P3A's and PREPA's performance as principal under the agency relationship cannot be remedied by imposing obligations on Genera that exceed the OMA's scope. Should you have any questions, please contact Mr. José Del Río, VP of Fuels, at jose.delrio@genera-pr.com and Vladimir Scutt, VP of Operations, at vladimir.scutt@genera-pr.com, in accordance with the other notice requirements of the OMA.

*[Signature Page to Follow]*

July 14, 2025

Cordially,

**Genera PR LLC**

Kevin Futch

**Kevin Futch**
General Counsel

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